

2-12. Assessments for Damage to CAP Aircraft:

a. Assessments. Wing and region commanders may assess CAP members the cost of repairs as follows:

- 1) For damage that occurs due to a member's ***negligence***, the member shall be assessed up to \$500. Negligence is the failure to use such care as a reasonably prudent and careful person would use under similar circumstances. Violation of CAP and/or FAA regulations is negligence if the violation contributes to causing the damage.
- 2) For damage that occurs due to a member's ***gross negligence***, the member shall be assessed up to \$5,000. Gross negligence is an act or omission of an aggravated character as distinguished from a mere failure to exercise ordinary care. Gross negligence is marked by conduct that presents an unreasonably high degree of risk to others or their property and by a failure to exercise even the slightest care. It is sometimes associated with conscious and willful indifference to others or their property.
- 3) For damage that occurs due to a member's ***willful or intentional misconduct***, upon a finding of willful or intentional misconduct by a wing or region commander, the National Commander may increase a member's assessment beyond \$5,000 after affording the member an opportunity to make a statement and present evidence. This assessment may equal, but not exceed, the total amount of the damages. Willful or intentional misconduct is conduct in which there is a reckless disregard of the probable consequences.
- 4) In determining if a member's actions constitute negligence, gross negligence, or willful or intentional misconduct, the commander will take into consideration all the facts concerning the incident and any written statement the member provides, as well as CAP and Federal Aviation Regulations. The commander may allow assessments to be paid in installments but shall require payment in full within one year. The CAPF 79 must reflect the assessment and method of payment. Proof of payment in full is to be filed in the pilot records file and retained for five years.

b. Appeals. The member being assessed may appeal in writing to the next level of command, but must do so within 30 days of notification of the imposition of the assessment. The decisions of the next level commander regarding negligence, gross negligence, and the amount to be assessed are final. The National Commander's decision on a member's assessment beyond \$5,000 for willful or intentional misconduct is final.